

Message Text

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ACTION SNM-05

INFO OCT-01 EUR-12 IO-14 ISO-00 PPTE-00 L-03 JUSE-00
CIAE-00 INR-10 NSAE-00 CA-01 /046 W
-----094394 271448Z /41

R 271026Z JUL 78
FM AMEMBASSY BELGRADE
TO SECSTATE WASHDC 7375
HQS DEA WASHDC
USMISSION GENEVA
AMEMBASSY PARIS
AMEMBASSY VIENNA

UNCLAS SECTION 1 OF 2 BELGRADE 5496

E. O. 11652: N/A
TAGS: SNAR, YO, CGEN
SUBJ: NARCOTIC LAWS

REF: (A) STATE 170187, (B) BELGRADE 5135

1. FOLLOWING IS REPORT ON EXISTING YUGOSLAV NARCOTICS LAWS.
IT IS EXPECTED THAT A NEW LAW WILL BE PASSED BY THE END OF
THE YEAR AND WE WILL REPORT ANY CHANGES AT THAT TIME.

2. POSSESSION

A) THE YUGOSLAV LAW DISTINGUISHES BETWEEN POSSESSION FOR OWN
PERSONAL USE WHICH IS NOT PUNISHABLE, AND POSSESSION FOR SALE
OR RESALE WHICH IS CONSIDERED A CRIMINAL OFFENSE AND IS
PUNISHABLE. SENTENCES FOR POSSESSION IN LATTER CASE RANGE
FROM SIX MONTHS TO FIVE YEARS, WHILE POSSESSION OF "ESPECIALLY
DANGEROUS" DRUGS OR PSYCHOTROPIC SUBSTANCES (WHICH ARE NOT
SPECIFIED) CARRIES SENTENCE OF ONE TO TEN YEARS. ADDICTION
IS TREATED AS A HEALTH PROBLEM AND IS NOT SUBJECT TO COMPULSORY
TREATMENT OR PROSECUTION UNLESS SOME CRIME IS COMMITTED IN
CONNECTION WITH IT.

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B) THERE IS NO SPECIFIED AMOUNT WHICH CONSTITUTES "POSSESSION".
WHETHER POSSESSION IS CRIMINAL OFFENSE OR NOT DEPENDS UPON
DISTINCTION ABOVE, I.E. WHETHER INTENDED FOR SALE OR PERSONAL
USE. IN PRACTICE, HOWEVER, POSSESSION OF SIGNIFICANT AMOUNTS
OF MARCOTICS OR DRUGS IS PROSECUTED AS "HOLDING FOR SALE" EVEN
WHEN INTENT TO SELL HAS NOT BEEN PROVED.

C) PENALTIES FOR POSSESSION IN THE CASE OF "ESPECIALLY DANGEROUS" SUBSTANCES ARE AS SEVERE AS FOR OTHER OFFENSES IF POSSESSION IS FOR SALE. PENALTIES FOR POSSESSION OF OTHER SUBSTANCES ARE LESS SEVERE THAN THOSE FOR TRAFFICKING ETC. IN GENERAL, SENTENCING IS AT THE DISCRETION OF THE JUDGE AND CAN VARY WIDELY WITHIN THE LEGALLY ESTABLISHED LIMITS DEPENDING ON AMOUNT OF GOODS INVOLVED, PREVIOUS HISTORY OF ARRESTS AND OTHER FACTORS.

3. TRAFFICKING.

A) ALL CONTROLLED SUBSTANCES ARE CONSIDERED AS A GROUP BUT PENALTIES FOR TRAFFICKING OF "ESPECIALLY DANGEROUS" SUBSTANCES AS STATED ABOVE ARE MORE SEVERE.

B) MINIMUM PENALTIES FOR TRAFFICKING ARE SAME AS FOR POSSESSION: SIX MONTHS TO FIVE YEARS FOR DRUGS AND PSYCHOTROPIC SUBSTANCES AND FROM ONE TO TEN YEARS FOR "ESPECIALLY DANGEROUS" SUBSTANCES. ACCORDING TO THE LAW THERE IS NO MANDATORY SENTENCING; IT IS WITHIN THE DISCRETION OF THE JUDGE TO DECIDE UPON DURATION OF THE SENTENCE. BAIL IS USUALLY SET HIGH (SEVERAL THOUSAND DOLLARS IS NOT UNUSUAL) AND IS USUALLY BASED ACCORDING TO SOME FORMULA ON THE VALUE OF THE DRUGS SEIZED. HOWEVER, SINCE JUDGE HAS DISCRETION, ACTUAL AMOUNT OF BAIL CAN VARY WIDELY FROM ONE LOCALE TO ANOTHER.
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C) TRAFFICKING IS NOT SEPARATELY DEFINED IN THE LAW, WHICH FORBIDS THE SALE, RESALE, HOLDING WITH INTENT TO SELL, PRODUCTION, AND PROCESSING OF NARCOTICS, ALL IN ONE CLAUSE. IT DOES, HOWEVER, SPECIFICALLY CALL FOR THE MORE SEVERE SENTENCES (ONE TO TEN YEARS) FOR PERSONS WHO ARE MEMBERS OF AN ORGANIZATION OR WHO ARE ORGANIZERS OF A NETWORK OF DEALERS OR SELLERS. LAW ENFORCEMENT ORGANS APPARENTLY HAVE BROAD LATITUDE IN DEFINING THE OFFENSE. ACCORDING TO POLICE OFFICIALS ASSOCIATION WITH TRAFFICKERS IS NOT SUFFICIENT FOR PERSECUTION; THE OFFENDER MUST BE CAUGHT EXCHANGING OR SELLING.

4. CULTIVATION, PRODUCTION, ELABORATION

A) CULTIVATION AND PRODUCTION OF ALL NARCOTICS IS PROHIBITED BY LAW EXCEPT FOR CERTAIN AUTHORIZED AGENCIES OR INDIVIDUAL PRODUCERS. THE PENALTIES FOR UNAUTHORIZED CULTIVATION OR PRODUCTION ARE THE SAME AS FOR POSSESSION AND TRAFFICKING, IF PROSECUTED AS A CRIMINAL OFFENSE. MOST ILLEGAL CULTIVATION OR ELABORATION IS TREATED AS AN ECONOMIC OFFENSE, WITH FINES RANGING FROM 100,000 TO 1,000,000 DINARS (ABOUT \$5,300 TO \$53,000). FINES ARE GREATER FOR FIRMS AND CORPORATE

ENTITIES THAN FOR INDIVIDUALS, BUT INDIVIDUALS MAY BE SUBJECT TO IMPRISONMENT FOR UP TO SIXTY DAYS. FURTHERMORE, FINES IN LESSER AMOUNT ARE PROVIDED FOR FAILURE TO KEEP PROPER CONTROL RECORDS OR FAILURE TO REPORT PRODUCTION.

5. FINANCIAL

A) FINANCING OF NARCOTIC MANUFACTURING IS NOT SPECIFICALLY MENTIONED AS AN OFFENSE IN THE LAW.

B) A YUGOSLAV CITIZEN MAY EXPORT 1,500 DINARS (ABOUT \$80) AND AN UNLIMITED AMOUNT OF FOREIGN CURRENCY ON HIS BANK ACCOUNT. THIS FOREIGN CURRENCY CAN BE TRANSFERRED TO ANOTHER BANK ACCOUNT. FOR FOREIGN NATIONALS, THERE IS NO LIMIT TO IMPORT
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AND EXPORT OF ONE'S OWN CURRENCY, EXCEPT THAT ONE CANNOT TAKE OUT MORE THAN HE BROUGHT IN.

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INFO OCT-01 EUR-12 IO-14 ISO-00 PPTE-00 L-03 JUSE-00
CIAE-00 INR-10 NSAE-00 CA-01 /046 W
-----094618 271446Z /41

R 271026Z JUL 78
FM AMEMBASSY BELGRADE
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5. CRIMINAL PROCEDURE

A) PRELIMINARY DETENTION IS ORDERED BY THE INVESTIGATING JUDGE OF THE CIRCUIT COURT AND IS EFFECTED BY ISSUING A WARRANT WHICH MUST BE DELIVERED TO THE PERSON CONCERNED

WITHIN 24 HOURS AFTER ARREST. THE PERIOD OF INVESTIGATION MAY LAST UP TO SIX MONTHS. (THE SYSTEM IS SIMILAR TO GERMAN AND OTHER EUROPEAN ONES IN THAT A CASE IS HANDLED INITIALLY BY AN INVESTIGATING JUDGE WHO COLLECTS EVIDENCE AND DETERMINES WHETHER THE CASE SHOULD BE FORWARDED TO THE TRIAL JUDGE). CONSULAR ACCESS IS PERMITTED DURING THIS PERIOD AND THE EMBASSY SHOULD BE NOTIFIED. HOWEVER, EMBASSY MAY BE NOTIFIED WITH CONSIDERABLE DELAY, OR PERHAPS NOT NOTIFIED AT ALL. THE EMBASSY MOST OFTEN FIRST LEARNS OF THE ARREST OF AMERICAN CITIZENS THROUGH THEIR FRIENDS AND RELATIVES.

B) PRE-TRIAL PRELIMINARY DETENTION, MAY LAST FROM THREE DAYS UP TO SIX MONTHS, THERE IS NO SET PERIOD, BUT TWO MONTHS IS NOT UNUSUAL EVEN IN FAIRLY SIMPLE CASES.

C) AFTER THE PRE-TRIAL PROCEDURE, THE TRIAL PROCESS IS FAIRLY QUICK AND MAY LAST AS LITTLE AS A COUPLE OF DAYS DEPENDING ON UNCLASSIFIED

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EVIDENCE PRESENTED IN COURT. CONFIRMATION OF THE SENTENCE IS USUALLY DELIVERED IMMEDIATELY. THE ACCUSED MAY SUBMIT AN APPEAL WITHIN 15 DAYS OF RECEIVING THE CONFIRMATION OF HIS SENTENCE.

D) LEGAL COUNSEL IS AVAILABLE AT NO COST TO THE DEFENDANT SHOULD HE HAVE NO OTHER COUNSEL PREVIOUSLY HIRED TO DEFEND HIS CASE. ATTORNEYS ARE AVAILABLE. THE FEES ARE USUALLY BASED ON THE CURRENT TRAFF OF FEES AND CAN RANGE FROM 2,000 TO 5,000 DINARS (ABOUT \$100 TO \$300).

E) "CONDITIONAL LIBERTY" CAN BE GRANTED AT THE DISCRETION OF THE JUDGE ON REQUEST OF THE OFFENDER, IN WHICH CASE HIS PASSPORT IS USUALLY RETAINED UNTIL TERMINATION OF PROCEEDINGS OR SENTENCE.

F) EMBASSY HAS NO CASE EXPERIENCE ON POSSIBILITY OF EXPELLING MINOR OFFENDERS. THERE IS NO PROVISION IN THE LAW FOR IT.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NARCOTICS, LAW, TEXT
Control Number: n/a
Copy: SINGLE
Draft Date: 27 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BELGRA05496
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780308-0411
Format: TEL
From: BELGRADE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780711/aaaaajgh.tel
Line Count: 212
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: cf7b566b-c288-dd11-92da-001cc4696bcc
Office: ACTION SNM
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 170187, 78 BELGRADE 5135
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1860179
Secure: OPEN
Status: NATIVE
Subject: NARCOTIC LAWS
TAGS: SNAR, CGEN, YO
To: STATE DEA
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/cf7b566b-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014